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Caller: Hi Scott.

Scott: (Caller Name) Good evening.

Caller: How are you doing?

Scott: I'm sure I'm doing fine. How are you doing?

Caller: Pretty good.

Scott: Our discussion the other day where you had 3 questions turned into 13 questions. [crosstalk 00:00:21] question.

Caller: They did.

Scott: I realize your passion on the issue and it's then your goal. It's everybody, EPA and Department of Health. I applaud the work you're doing. I know you're passionate about it. You know I've got ... Pesticides have gotten back to me on some of these things because obviously I didn't have the information as I relayed to you. I've got this draft that's in my hand (filed uipa used to get draft, we have in a separate file, parts were redacted) and on your first bullet point about how many homes have been tested. They're telling me they need to research it. There almost thinking they're going to ask you to do a [00:01:03] UIPA for it and I told them that that wasn't what I wanted to do. They're going to put that together. I was talking to them, and this is off the record basically, they told me they thought it was about a dozen homes that got tested. (Caller DID UIPA the "list" and it was denied as "unable to provide because HDOA is not required to summarize information HRS section 92F-11(C)" )

Caller: That were all positive?

Scott: They couldn't verify it. Saying you were looking for accurate information, that's why they're telling me they will have to research this.

Caller: Those were a dozen homes?

Scott: I'll up there tomorrow and see where they are. The second bullet point is, how many cases were positive? It's the same thing.

Caller: About a dozen?

Scott: You knows that ... Unofficially, I guess yes, because I have to give you a ball park with a ball park. That's a ball park. [00:01:50]

Scott: Yeah, I mean even, not plus or minus if you ... That's pretty outrageous that nothing's been done.

Scott: There's a lot of context around what's going on in the pesticide branch of the department. Which I'm in the process of fixing, or attempting to fix and or remedy. The third bullet point is about the helicopter over spray on Baldwin Avenue in March. You were asking about the ... When it would be completed. The case is open and the lab results are pending. (incident was NINE MONTHS AGO!) Further on the next question is about running samples. As you're probably aware, our lab facilities broke. They were broken, so there's a back log. There's a backlog that's 3 months. We're told by our chemist that runs the lab, that in 3 months he'll have done all of the samples that he has that are backlogged.

But what we can do, this I think was some of the miscommunication that you might have had with Lester about Tom's role is, we can move certain samples further up in the queue. They might have come in on one date, but if it's a sensitive case we can move it up in the queue and have it tested sooner. Every sample that gets taken, get tested. Tom doesn't decide that somethings aren't going to get tested. If a samples taken of something they always get tested. That's that part. We're 3 months behind. We should have the backlog done in 3 months.

Caller: When I spoke with Pam Cooper at the EPA she indicated that this has been a problem for a while with you guys. She indicated that you should just send them out to the mainland if you're backlogged. That's not an excuse. That if you can't run them in a timely fashion, they should just be sent to outside labs. That would eliminate the backup.

Scott: Yeah. True, but then they land up the again that's richer in context than if we are going to have a full conversation of what's going on. You can run the samples, but if they go into an investigation package and if that package is going to sit, because of our ability to process the investigative case that's the case packet. I mean it doesn't really make that big of a difference. The EPA supposedly gives 5 years to finish one of these investigations.

Caller: I would think though for public ...

Scott: That's what I was told. I told our guys that that was not acceptable.

Caller: Yeah. I think that if someone has their house tested they'd want to know within a week so they can have it professional cleaned if necessary.

Scott: Yeah, true. Again, it's tolerance level. If there's something there we would consider it drift. If it's a really insignificant amount in terms of tolerance level. If it's in parts per billion. I don't know that they want to have it ... Pay to have it cleaned.

Caller: However though, if you look at tolerance levels. There are individual tolerance levels for each of the 6, of the herbicides that HC&S uses in there mixture. There has never been any studies on the combination, so there is no tolerance level when you combine them all in one mixture. The safety is unknown. (recently we discovered there is no "tolerance level" stated for pesticides found on surfaces inside of homes)

Scott: I will give you that.

Caller: Yeah. Having 6 in your house at one time, I don't care what the levels are, that's not ever been studied.

Scott: Let's see. Moving on. Will the samples from the most recent home over spray in Paia actually be run? The complainant indicated that less than 10, that was the one where ...

Caller: Yeah, you answered that.

Scott: Yeah.

Caller: The next one I don't need. I have EPA registration numbers for them.

Scott: Okay, because they've got open numbers for you.

Caller: However, on a couple of the labels that did say that the wind speed limits were 10 miles an hour and 15.

Scott: Yeah.

Caller: My question for you is, if someone's using a covered boom, does that mean that the wind speed levels are increased because they're using a covered boom or are they still need to apply them by the label?

Scott: By the label would be my understanding.

Caller: On that day. HC&S, I mean, you can check out the wind speed yourself, they were well above 10. The limits were 10 on one and 15 on another. The one that had the 15 mile per hour limit also had a 250 foot upwind buffer zone that's required. They were ... I mean it's a clear violation right there. You can feel any wind speeds anywhere on the island. It was extremely windy day and they were out there spraying completely against the label. Knowingly doing it. Would that elevate to a level of something that you guys would investigate immediately and possibly pull their permit, revoke it, or suspend it? Based on the fact that they were in clear violation of the label, if in fact my reading of it was correct and it's 10 miles an hour on one and 15 on another?

Scott: I would defer to staff and say that, when you were making that case, I was taking that you're talking about actual conditions and I'm thinking hypothetical, because I don't know that that's the case. The first step ... You know what I am thinking about doing (Caller Name), is sometime in the near term, flying over to Maui and meet with you, also I know I need to meet with my friends at HC&S to see what's up with them. The community has a lot of concerns obviously about their pesticide application practices.

Caller: My concern is if 10 or 12 homes tested positive and there was no demand by the Department of Ag for them to change the way they're operating. So for 4 years now, possibly 5, and maybe longer, but I have evidence for 4 at least. People have been living

in homes that have had 6 different herbicides in them. No citations. No requirements for them to change applications methods. No enforcement of wind speeds, because they were out there on December 2nd in howling winds that were 15 to 28 miles an hour, spraying things with a label that said 10 miles per hour or less. To me that's actually criminal. That should be an immediate suspension of their permit. They actually were spraying in winds that were so excessive that resulted in over spray and they're allowed to go out and spray again tomorrow? I don't get it.

Scott: There might be ... This is talking hypothetical again because I don't have the information in front of me that speaks factually. There might be some of the way that the regulations are written that you might have problems with, in terms of what the EPA is saying the Department of Ag needs to do with people that are applying pesticides in a way that is not within regulations. I don't know if I could ... I don't if the department can just reach in and revoke a registration from the RUP license holder because they sprayed incorrectly.

Caller: You actually can. I familiarized myself a lot with the state rules regarding pesticides application. The director in combination with the Department of Health director can revoke, suspend, or pull a permit. [10:40]

Scott: If in fact you've made the case that that's exactly what happens.

Caller: Yeah. This would be an easy case to make pretty quickly just looking at wind speeds and what they were spraying. I mean it could be done in an hour, if indeed that is the label, if I am reading the label correctly. This is from the EPA registration number label that they said they were spraying that day. It's a pretty cut and dry case if they actually were spraying that and the label says 10. It would be easy to find that out in about 30 minutes. Look at the wind speeds, realize they were in violation, and if that's the case, it's a clear and I would say knowing violation. That that would be something you could suspend their permit for until you get things under control.

[Changes subject, ha,ha]

Scott: Looking to see where I left off on your questions. Where were we Brad?

Caller: We were on the one for EVIK.

Scott: EVIK was one of the chemicals sprayed on December 2nd, that bullet point?

Caller: Yeah. That's the one that you guys petitioned the EPA because HC&S said it was too windy on Maui. So you petitioned the EPA to double the label wind speed for that, from 10 to 20. In light of the recent over sprays, can you resend that and make it so they have to abide by the 10 miles an hour again?

Scott: Their response is ... I can send this to you tomorrow. The label language on current section 3 EVIK DF states "Do not apply in wind speeds greater than 10 miles per hour. 2012. A special local need registration was issued to the state of Hawaii after

collaboration of discussion with the registrant of EVIK DF and the EPA, to allow the use of EVIK DP in variable wind speeds up to 20 miles per hour. The SOM label also impose additional management practices in order to reduce the potential for drift in these high wind speeds. Until the current cases are closed, verify and support the allegations of drift. No chart changes can be made to the current issued registrations."

Caller: Yeah. That's just unacceptable. I mean 4 years have passed and the cases are still open. That's just totally unacceptable.

Scott: That's the response from staff. The next bullet.

Caller: So you won't ... I'm reading rule 149A-32.5 "Cancellation or suspension of pesticide uses, notwithstanding any law, rule, or executive order to the contrary. The chair person of the Board of Agriculture, in consultation with the advisory committee on pesticides, with the approval of the Department of Health shall suspend, cancel, restrict the use of certain pesticides or specific uses of certain pesticides, when the usage is determined to have an unreasonable adverse effect on the environment. In addition to other circumstances which may require determination as to whether an adverse effect exists, it's when residues of the pesticides are detected in the drinking water." That's one of them. There is also "The department may deny the issuance of the certificate for a reasonable cause or revoke it for violations of any of the certificate or any of the law or rule pertaining to the use of the restricted used pesticide." That is your power to do. "It will be set forth in writing and shall set forth the reasons for the suspension or revocation. The action department in suspending or revoking your certificate may be reviewed in the manner provided by the chapter 91."

My argument is, if 12 homes have these 6 different chemical residues in them. You've had other over sprays. You've had instances where they've been spraying in winds that are too high. I know all the cases are open because you've never closed any. There are multiple violations, just to having the 6 different herbicides in peoples homes when you can't actually ... I don't think it's possible for some of restricted use. I don't think there would be any other player besides HC&S, that could be responsible for all 6 in a house. Maybe if you had 1 or 2 you might be able to argue it's someone else. [15:30]

Scott: You know what I'd like to do (Caller Name)? You know seeing in so much as I've got to take off to go to a 7 o'clock appointment. Tomorrow morning, I don't know what your schedule looks like, I heard when you text you had meetings all afternoon. I've got blocks of time open in my morning. I'd like to take this back up then if we could.

Caller: Yeah. Do you got like 11?

Scott: Sounds like you and I are going to have an extended conversation over a period of time, is what it appears to me.

Caller: Yeah.

Scott: It's not like we were going to resolve anything this evening.

Caller: No, it doesn't.

Scott: Are you good with that?

Caller: I am. However, some of this is timely. Day by day goes by and they're continuing to poison people in their homes. If you want to be blunt about it. The other 2 things just before I get you off the phone, really quickly, just so you can maybe think about it before tomorrow. The atrazine levels, that's why I was reading that one rule since it is detected in our drinking water, that is an explicit reason to revoke the permit for using that.

Scott: We'll take it up tomorrow. I would imagine that, if it's in the drinking water and above the EPA's tolerance levels, which to my understanding, it's not even approaching that. We can take it up tomorrow and over the course of time. As I said, it's my intention to come over in person (Caller Name) . You and I should probably meet because I think we're going to be having this discussion.

Caller: We probably will be.

Scott: For a while.

Caller: The other thing with Paia school being tested. It's right in the middle of all those homes. Children go to school there and parents are concerned.

Scott: You know Lester was there today, as I understand it, talking to the principal. I might have more information when we talk tomorrow.

Caller: Okay. I spoke to with Senator Schatz's office too, so he will probably be contacting them about getting them tested.

Scott: Well the Senators a friend of mine so I welcome his call.

Caller: Yeah, I went to school with him too. I was a classmate of his. He's usually big on the environment, but I know after being a Senator it's like he's got other things going on as well.

Scott: Yeah. He'll be there for you. He's still a huge advocate for the environment.

Caller: Yeah. His brother is in the department. He's been with the Department of Ed for awhile.

Scott: Yeah. [inaudible 00:18:08]

Caller: Okay. What time is good for you tomorrow? Maybe 11? Does that work?

Scott: You know I fix a locking over my desk. You know I've got somebody in at 11, but I'm good between 9:30 and 11.



Caller: Why don't we say 10?

Scott: 10 o'clock it is.

Caller: Okay. Sounds good. I will talk to you then.

Scott: Okay. Have a good evening.

Caller: You too. Thanks Scott. Bye.

Scott: Bye now.

Caller: Thursday, December 17th, 2015. 6:30 to 6:50pm. Scott Enright. Hawaii Department of Agriculture.

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